

If I am injured at work how do I make a claim?

Notify your employer immediately and record the injury. If your employer has a claim form, complete it and hand it to your employer. Your employer should notify the insurer within 48 hours of your injury. You will then need to see a doctor (this will be your choice of nominated treating doctor) get the doctor to fill out a Work Cover certificate of capacity and give it to your employer as soon as possible.

Weekly payments should start within 7 days unless additional evidence / information are required. A claim for workers compensation should be made within six months of the date of injury, accident or date of death.

If the failure to make a claim within six months is the result of ignorance, mistake, or absence from the State a claim for workers compensation can still be made if it is made within 3 years from the date of accident.

If a claim is not made within three years but relates to an injury resulting in death or serious permanent impairment of the worker, the claim may still be made. However this may take longer than expected for the claim to be accepted or declined.

What happens once I put the claim in and am waiting for an answer?

The insurer will contact the worker, employer, and if necessary, the worker's nominated treating doctor to build your case.

Provisional liability payments will start within 7 days of the insurer receiving notification of the injury. If the insurer has a reasonable excuse to not commence provisional liability payments, they will notify the worker within seven days of receiving notification of injury.

In most cases, an injured worker does not need to complete an insurance claim form if the insurer has sufficient information about the injury.

Do I have to obtain a Work Cover NSW - Certificate of Capacity to make a claim for Workers Compensation?

Yes. All Claims for workers compensation must be supported by a Work Cover NSW - Certificate of Capacity (previously called a Work Cover Certificate). The certificate must be completed by your treating doctor and submitted with the claim form.

If I am a casual or part time worker can I still put in a workers compensation claim?

Yes you can, as long as your injury arose out of, or in the course of your employment where the employment is a substantial contributing factor.

What should I do when I see my Doctor?

Tell your doctor about:

- Exactly how and when the injury happened
- Any previous injuries or illnesses that you have had
- Any treatment that you have received or are still receiving for the work related injury
- The types of duties and tasks you do at work
- Your normal days and hours of work.

To help your doctor:

- take a description of your job and the duties that you do (you can get this from your supervisor/employer)

Make sure that you:

- Obtain a certificate of capacity if you need time off work or any treatment for your work related injury
- Authorise your doctor to provide necessary information to your employer, insurer and other relevant people by signing the certificate of capacity

- Complete the certificate of capacity (worker declaration) and send all sections of your certificate of capacity to your employer.

How are the workers compensation legislation changes going to affect my weekly payments?

The system has completely changed. The insurer will assess your work capacity and then make a work capacity decision. This decision will determine if you have the entitlement to weekly payments and at what rate.

Is my department exempt from the new changes?

If you are a police officer, paramedic, fire-fighter & Rural Fire Service, SES, coal miners or suffer from a dust disease, then you are exempt from any changes that were made by the NSW Government in June 2012. The old system applies to these workers.

I was injured and received payments before the new changes came in, do the new changes affect me?

Yes. They impact on all injured workers.

What benefits is an injured worker entitled to?

Everyone's situation is different, the below answers may vary depending on the situation.

- Weekly benefits
- A lump sum for your injury
- Medical, hospital, domestic assistance and rehabilitation expenses

I am on the old workers compensation payment rate, when will I be transitioned over to the new rate?

If you made your claim prior to 1 October 2012 and your circumstances remain the same, your existing weekly payment rate continues until you are transitioned to the new benefits. That will begin in January 2013 following an assessment of your work capacity.

How long are my medical costs going to be covered?

There has been a limit placed on the coverage of medical costs. 12 months after your weekly

payments cease any medical or related cost will also cease. Please note that an insurer is not liable to pay for treatment that they have not pre-approved, except for treatment received within the first 48 hours after the accident. However, those who are classified as seriously injured workers are exempt from the above.

I'm on workers compensation and I am about to reach retirement age, what will happen to my workers compensation payments?

Under the new Act, if a worker is injured before reaching retiring age, weekly benefits will stop when they reach retiring age. If the worker is injured after they have reached retiring age, then they can receive weekly benefits for a maximum period of 12 months from when the incapacity commenced. Medical expenses are paid for a maximum period of 12 months from when an insurer ceases to be liable to pay weekly benefits.

The insurer previously accepted liability for my injury, but they will no longer pay for my medical costs, what should I do?

An insurer is liable to pay for the reasonable and necessary treatment expenses related to the injury during the period that the worker is receiving weekly payments and up to 12 months from when the insurer ceases to be liable to pay for weekly benefits. If the insurer decides to stop paying for treatment expenses in this period, then call WIRO (the Workcover Independent Review Office 139477) or Workcover on 131050. If legal assistance is needed contact the PSA as we have WIRO approved solicitors to assist.

How do they determine my whole person impairment?

In order to be awarded a lump sum for the injuries, a worker needs to be assessed as suffering a whole person impairment of greater than (10% for physical injuries and 15% psychological injury now). This process involves attending an appointment with a trained assessor/doctor who will assess the worker's capacity in accordance with the relevant Work Cover guidelines.

If I want to dispute my declined claim do I have to pay anything?

If you seek your own solicitor (who is not WIRO approved) to take on your declined claim, yes you do need to pay out of your own pocket. If you are a member of the PSA at the time of your injury, you have the option of being referred to the PSA's solicitors who are WIRO approved. The solicitor can then apply on your behalf to WIRO for a grant to cover your legal fees.

What is an ILARS grant?

ILARS stands for Independent Legal Assistance and Review Service. Through WIRO your Lawyer who must be recognised as an Approved Legal Service Provider, can apply for an ILARS grant on your behalf. This will allow your solicitor to investigate and legally challenge any dispute regarding your workers compensation claim.

If I have gone to a lawyer before ringing the PSA, am I able to use the PSA's Lawyer?

If you have just sought advice from another lawyer then you are able use the PSA Lawyer, however, if you have had another lawyer acting on your behalf, then the PSA Lawyer will not take on the case.

Am I able to make a claim for pain and suffering i.e. lump sum payment?

The laws amending lump sum payment, which came into effect on June 19 2012, will only apply to those who had made a lump sum claim prior to 19 June 2012 in respect to any injury which resulted in permanent impairment. So that means, yes you are able to make a claim in relation to pain and suffering if this process began prior to 19 June 2012. This decision made in Court also means that:

- The new threshold of 11% required to bring a whole of person injury claim under s66 of the Act does not apply to this class of worker.
- The worker can bring multiple claims under s66 as his or her impairment deteriorates.

The insurance company has accepted liability, they are covering all medical expenses, they are stalling on an operation I need, is there anything I can do to speed up the process?

You can contact the WIRO or WorkCover. If there are further problems, call the PSA as you may need to be referred to a solicitor.

What are the stages of workers compensation weekly benefits?

During the first 13 weeks, workers who have no current work capacity will receive up to 95 per cent of their pre-injury average weekly earnings.

- From weeks 14 to 130, workers who have no current work capacity will receive up to 80 per cent of their pre-injury average weekly earnings.
- If the injured worker is returning to work for 15 hours + per week, they are able to continue on 95%
- After 130 weeks, workers who have no current work capacity will continue to receive up to 80 per cent of their pre-injury average weekly earnings. Weeklies stop after 5 years of incapacity unless you exceed the 20% whole person impairment threshold.

The insurance company have stopped my weekly payments; does this mean my medical expense's stop also?

They stop 12 months after insurer ceases to be liable to pay weekly benefits.

Am I able to tell my employer, rehabilitation providers or case managers that they are not to come in to my Doctor's appointments? If so what can I do if they insist on coming?

You do have the right to inform your employer / case manager or rehab organiser that you do not wish to have them come to the Doctors with you. They have the right to access the information concerning your workplace injury only. If they want to meet with the Doctor they can make their own appointment, but if you choose to be present, you also have that right. There is no legislation that supports their right to force their way into your appointment. You may prefer to see your Dr privately, then invite the

return to work co-ordinator or rehab provider to come in at the end of or after your private consultation.

I have been injured on my way to work? What counts as the most direct route to/from work?

If the incident occurred before 19/6/2012, then you can still make a workers compensate journey claim. In these cases, as long as the diversion from the direct route did not materially increase the risk of injury, then you will have a claim. If the incident occurred on or after 19/6/2012, then you are unable to make a workers compensation claim if you are injured to/from work unless there is a real and substantial connection between employment and incident. (see Workers compensation Act 1987 sec 43(1)a-e) However, you may be able to make an insurance policy claim.

What is a Work Capacity Assessment (WCA)?

A WCA is review done by the insurance company to assess your current capacity for work. This is to determine if the worker can return to work and if so, under what conditions or restrictions (see WC Act 1987 sec 43.1, a-e) (known as a Work Capacity Decision – WCD). A WCA can involve a medical assessment, however, it can also be requested by an insurer simply reviewing the medical evidence they have on your file.

When on workers compensation do I have a WCA?

Workers receiving weekly benefits are required to undergo WCAs throughout the life of their claim, unless they have an injury resulting in a whole person impairment (WPI) of greater than 30%. Workers who suffer from a WPI of greater than 30% can ask to be work capacity assessed should they wish to do so, and if it is appropriate to assess them.

What if I disagree with the insurer's Work Capacity Decision?

Your work capacity assessment will occur by 130 weeks of incapacity and this will be reviewed at least every two years. If you

disagree with the insurer's WCD you can apply for an internal review by the insurer within 30 days of the decision. If you are still not satisfied with the reviewed decision you can request Work Cover to review the decision, again, within 30 days of the reviewed decision. Work Cover can assist with the process and you contact Work Cover on **131050** for assistance. If you are unsatisfied with Work Cover's decision, you can apply, within 30 days, for a merit review to be conducted by WIRO (the Work Cover Independent Review Office). WIRO can assist with this (and the entire) process. WIRO can be contacted on **13 9476**. If you still want to review the decision you need to seek legal advice.

Will the changes resulting from my WCA take effect immediately?

There is a 3 month notice period after the WCA where you will continue to receive your regular payments before the changes decided by the WCD come into play.

How do I go about returning to work?

The first step is to obtain a certificate of capacity from your nominated treating doctor (the doctor that is treating your injury/managing your treatment) and provide it to your employer and insurer. If you experience difficulty returning to work, then you can ask the insurer to engage an accredited rehabilitation provider to assist. The rehab provider can be recommended to you by your insurer, doctor, or employer or you may pick one yourself. The aim is to develop a return to work plan, which will outline how you go about returning to your previous job. The rehab provider can also assist in finding a new job which suits your new limitations. This is not a service that you are required to pay for. The insurance company is liable for this and you have the right to choose your own rehab provider. All Public Services should have a Return to Work Policy that should be provided to you when making a Return To Work plan and accommodate the medical restrictions placed on the injured worker.

If I am unable to return to work, how does medical retirement occur?

The Government Medical Officer advises the Department about the employee's fitness to

continue working in their position. The Department is able to use this advice to determine whether or not the person should be medically retired, as medical retirement is the responsibility of the Department. If the Department decides that an employee is to be retired they should be informed and will have to cease duty immediately.

Workers who are facing medical retirement should contact their Superannuation fund, financial advisor and their PSA Industrial Officer if they wish to challenge it.

Phone numbers that may be useful to you when claiming for a workers compensation injury

WorkCover Authority - 13 10 50

WIRO (WorkCover Independent Review Office) - 13 94 76

Dust Disease Board - 1800 550 027

Mental Health Helpline - 1800 011 511

Lifeline - 13 11 14

Beyond Blue Information line - 1300 224 636

**Please direct any workers compensation enquires to the
PSA on:**

1300 772 679

